

## Internal Revenue Service, Treasury

## § 1.408A-2

§ 1.408A-5 Recharacterized contributions.  
§ 1.408A-6 Distributions.  
§ 1.408A-7 Reporting.  
§ 1.408A-8 Definitions.  
§ 1.408A-9 Effective date.

[T.D. 8816, 64 FR 5601, Feb. 4, 1999]

### § 1.408A-1 Roth IRAs in general.

This section sets forth the following questions and answers that discuss the background and general features of Roth IRAs:

#### Q-1. What is a Roth IRA?

A-1. (a) A Roth IRA is a new type of individual retirement plan that individuals can use, beginning in 1998. Roth IRAs are described in section 408A, which was added by the Taxpayer Relief Act of 1997 (TRA 97), Public Law 105-34 (111 Stat. 788).

(b) Roth IRAs are treated like traditional IRAs except where the Internal Revenue Code specifies different treatment. For example, aggregate contributions (other than by a conversion or other rollover) to all an individual's Roth IRAs are not permitted to exceed \$2,000 for a taxable year. Further, income earned on funds held in a Roth IRA is generally not taxable. Similarly, the rules of section 408(e), such as the loss of exemption of the account where the owner engages in a prohibited transaction, apply to Roth IRAs in the same manner as to traditional IRAs.

#### Q-2. What are the significant differences between traditional IRAs and Roth IRAs?

A-2. There are several significant differences between traditional IRAs and Roth IRAs under the Internal Revenue Code. For example, eligibility to contribute to a Roth IRA is subject to special modified AGI (adjusted gross income) limits; contributions to a Roth IRA are never deductible; qualified distributions from a Roth IRA are not includible in gross income; the required minimum distribution rules under section 408(a)(6) and (b)(3) (which generally incorporate the provisions of section 401(a)(9)) do not apply to a Roth IRA during the lifetime of the owner; and contributions to a Roth IRA can be made after the owner has attained age 70½.

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### § 1.408A-2 Establishing Roth IRAs.

This section sets forth the following questions and answers that provide rules applicable to establishing Roth IRAs:

#### Q-1. Who can establish a Roth IRA?

A-1. Except as provided in A-3 of this section, only an individual can establish a Roth IRA. In addition, in order to be eligible to contribute to a Roth IRA for a particular year, an individual must satisfy certain compensation requirements and adjusted gross income limits (see § 1.408A-3 A-3).

#### Q-2. How is a Roth IRA established?

A-2. A Roth IRA can be established with any bank, insurance company, or other person authorized in accordance with § 1.408-2(e) to serve as a trustee with respect to IRAs. The document establishing the Roth IRA must clearly designate the IRA as a Roth IRA, and this designation cannot be changed at a later date. Thus, an IRA that is designated as a Roth IRA cannot later be treated as a traditional IRA. However, see § 1.408A-4 A-1(b)(3) for certain rules for converting a traditional IRA to a Roth IRA with the same trustee by redesignating the traditional IRA as a Roth IRA, and see § 1.408A-5 for rules for recharacterizing certain IRA contributions.

#### Q-3. Can an employer or an association of employees establish a Roth IRA to hold contributions of employees or members?

A-3. Yes. Pursuant to section 408(c), an employer or an association of employees can establish a trust to hold contributions of employees or members made under a Roth IRA. Each employee's or member's account in the trust is treated as a separate Roth IRA that is subject to the generally applicable Roth IRA rules. The employer or association of employees may do certain acts otherwise required by an individual, for example, establishing and designating a trust as a Roth IRA.

#### Q-4. What is the effect of a surviving spouse of a Roth IRA owner treating an IRA as his or her own?

A-4. If the surviving spouse of a Roth IRA owner treats a Roth IRA as his or her own as of a date, the Roth IRA is treated from that date forward as though it were established for the benefit of the surviving spouse and not the

original Roth IRA owner. Thus, for example, the surviving spouse is treated as the Roth IRA owner for purposes of applying the minimum distribution requirements under section 408(a)(6) and (b)(3). Similarly, the surviving spouse is treated as the Roth IRA owner rather than a beneficiary for purposes of determining the amount of any distribution from the Roth IRA that is includible in gross income and whether the distribution is subject to the 10-percent additional tax under section 72(t).

[T.D. 8816, 64 FR 5601, Feb. 4, 1999]

**§ 1.408A-3 Contributions to Roth IRAs.**

This section sets forth the following questions and answers that provide rules regarding contributions to Roth IRAs:

**Q-1.** What types of contributions are permitted to be made to a Roth IRA?

**A-1.** There are two types of contributions that are permitted to be made to a Roth IRA: regular contributions and qualified rollover contributions (including conversion contributions). The term regular contributions means contributions other than qualified rollover contributions.

**Q-2.** When are contributions permitted to be made to a Roth IRA?

**A-2.** (a) The provisions of section 408A are effective for taxable years beginning on or after January 1, 1998. Thus, the first taxable year for which contributions are permitted to be made to a Roth IRA by an individual is the individual's taxable year beginning in 1998.

(b) Regular contributions for a particular taxable year must generally be contributed by the due date (not including extensions) for filing a Federal income tax return for that taxable year. (See § 1.408A-5 regarding re-characterization of certain contributions.)

**Q-3.** What is the maximum aggregate amount of regular contributions an individual is eligible to contribute to a Roth IRA for a taxable year?

**A-3.** (a) The maximum aggregate amount that an individual is eligible to contribute to all his or her Roth IRAs as a regular contribution for a taxable year is the same as the maximum for

traditional IRAs: \$2,000 or, if less, that individual's compensation for the year.

(b) For Roth IRAs, the maximum amount described in paragraph (a) of this A-3 is phased out between certain levels of modified AGI. For an individual who is not married, the dollar amount is phased out ratably between modified AGI of \$95,000 and \$110,000; for a married individual filing a joint return, between modified AGI of \$150,000 and \$160,000; and for a married individual filing separately, between modified AGI of \$0 and \$10,000. For this purpose, a married individual who has lived apart from his or her spouse for the entire taxable year and who files separately is treated as not married. Under section 408A(c)(3)(A), in applying the phase-out, the maximum amount is rounded up to the next higher multiple of \$10 and is not reduced below \$200 until completely phased out.

(c) If an individual makes regular contributions to both traditional IRAs and Roth IRAs for a taxable year, the maximum limit for the Roth IRA is the lesser of—

(1) The amount described in paragraph (a) of this A-3 reduced by the amount contributed to traditional IRAs for the taxable year; and

(2) The amount described in paragraph (b) of this A-3. Employer contributions, including elective deferrals, made under a SEP or SIMPLE IRA Plan on behalf of an individual (including a self-employed individual) do not reduce the amount of the individual's maximum regular contribution.

(d) The rules in this A-3 are illustrated by the following examples:

*Example 1.* In 1998, unmarried, calendar-year taxpayer B, age 60, has modified AGI of \$40,000 and compensation of \$5,000. For 1998, B can contribute a maximum of \$2,000 to a traditional IRA, a Roth IRA or a combination of traditional and Roth IRAs.

*Example 2.* The facts are the same as in *Example 1*. However, assume that B violates the maximum regular contribution limit by contributing \$2,000 to a traditional IRA and \$2,000 to a Roth IRA for 1998. The \$2,000 to B's Roth IRA would be an excess contribution to B's Roth IRA for 1998 because an individual's contributions are applied first to a traditional IRA, then to a Roth IRA.

*Example 3.* The facts are the same as in *Example 1*, except that B's compensation is \$900. The maximum amount B can contribute to